

REMARKS

I. Introduction

The drawings have been amended to correct the mistaken labeling of a figure element. The specification has been amended to correct various minor and obvious typographical errors. Claims 1 and 44 have been amended. New claims 91-135 have been added. (These Remarks are followed by an Appendix showing how the drawings, specification, and claims 1 and 44 have been amended, and showing new claims 91-135. This Reply is also accompanied by a separate Letter to the Official Draftsperson regarding the drawing amendments.) Claims 2-43 and 45-90 are also in the case.

Reconsideration of this application in light of the following Remarks is hereby respectfully requested.

II. The Rejection of Claims 1-86 Based on 35 U.S.C. § 103(a)

Claims 1-86 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Brenner et al. U.S. patent 6,004,211 (hereinafter "Brenner"). This rejection is respectfully traversed.

Applicants' invention, as defined by independent claims 1 and 44, is directed towards a method and system for submitting electronic wagers on races that are to be run to computer equipment over a communications network. At least

one wireless portable computing device with a display is in two-way wireless communications with in-home user equipment. A user is provided with on-screen options on the display of the wireless portable computing device that allow the user to create a wager for a given race to be run. The on-screen options are based at least in part on racing data received by the in-home user equipment from the communications network.

Illustrative on-screen options that may be displayed on the display of the wireless portable computing device are shown in FIGS. 3-8 of the application. For example, FIG. 3 of the application shows on-screen track options. The on-screen track options may include tracks that are available to the user for wagering.

Brenner refers to an interactive wagering system that allows a user to view racing information and place bets using an off-track user terminal.

The Examiner contends that applicants' invention would have been obvious over Brenner and "well known in that [sic] art ... audio/video remote controllers" because Brenner "teach[es] that any suitable wireless user interface device can be used in conjunction with television sets for display" (page 2 of the February 19, 2002 Office Action). While it is true that the practice of applicants' invention as claimed may implicate Brenner, Brenner, however, does not teach the specific improvements of (a) providing two-way wireless

communications between a wireless portable computing device and in-home user equipment and (b) providing on-screen options on the display of the wireless portable computing device that are based at least in part on racing data received by the in-home user equipment as defined in claims 1 and 44.

Furthermore, the Examiner's reliance on the alleged "well known ... in that [sic] art audio/video remote controllers" still fails to teach applicants' specific improvements. Accordingly, the combination of Brenner and the alleged remote controllers fails to show or suggest (a) providing two-way wireless communications between a wireless portable computing device and in-home user equipment and (b) providing on-screen options on the display of the wireless portable computing device that are based at least in part on racing data received by the in-home user equipment as defined in claims 1 and 44.

If the Examiner insists on maintaining this single reference obviousness rejection based on the argument that "well known ... in that [sic] art audio/video remote controllers" teach applicants' specific improvements over Brenner, then applicants respectfully request that the Examiner provide a reference which shows such remote controllers, as is applicants' right under MPEP § 2144.03.

The foregoing demonstrates that independent claims 1 and 44 are patentable. In addition, claims 2-43 and 45-86, which depend from claims 1 and 44, respectively, are also patentable for at least the same reasons that independent claims 1 and 44 are patentable. Therefore, the Examiner's rejection of dependent claims 2-43 and 45-86 is moot.

III. The Rejection of Claims 87-90
Based on 35 U.S.C. § 103(a)

Claims 87-90 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Brenner in view of LaDue U.S. patent 5,999,808 (hereinafter "LaDue"). This rejection is respectfully traversed.

A. The Rejection of Claims 87 and 88

Applicants' invention, as defined by independent claims 87 and 88, is directed towards a method for using wireless application protocol (WAP) communications to wirelessly submit electronic wagers on races that are to be run and a corresponding system. A user is provided at wireless user equipment with on-screen options on a display of the wireless user equipment that allow the user to create a wager for a given race to be run. The user is allowed to wirelessly transmit the wager from the wireless user equipment to a communications network over a wireless

communications path using WAP when it is desired to submit the wager for processing. The wager is received at computer equipment over the communications network for processing.

The Examiner contends that it would have been obvious to combine LaDue with Brenner. This is not so.

The obviousness rejection of claims 87 and 88 must be withdrawn because the Examiner has failed to provide a sufficient motivation for combining Brenner and LaDue. See In re Rouffet, 47 U.S.P.Q.2d 1453, 1456 (Fed. Cir. 1998) ("When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references."); see also MPEP §§ 2142 and 2143.01. It is well-settled that an examiner can "satisfy this burden only by showing some objective teaching ... that would lead [one of ordinary skill in the art] to combine the relevant teachings of the references." In re Fine, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988) (emphasis added).

Instead of providing an objective teaching of a motivation to combine Brenner and LaDue, however, the Examiner merely concludes that it would have been obvious to combine Brenner and LaDue to achieve "the purpose of" applicants' invention:

It would have been obvious to one skilled in the art at the time the invention was made to combine the wireless application protocol system for wagering by LaDue with the horse race wagering

system as taught by Brenner et al. for the purpose of seamless operation with the existing wireless network infrastructure and so that wagering can take place anywhere legal including the race track or in a user's home.

Page 5, lines 14-18 of the February 19, 2002 Office Action.

But such "[b]road conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence'" of a motivation to combine. In re Dembiczak, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999), abrogated on other grounds by In re Gartside, 53 U.S.P.Q.2d 1769 (Fed. Cir. 2000).

Without objective evidence of a motivation to combine, the obviousness rejection is the "essence of hindsight" reconstruction, the very "syndrome" that the requirement for such evidence is designed to combat, and insufficient as a matter of law. Id. at 1617-1618. For this reason alone the rejection of claims 87 and 88 must be withdrawn. Gambro Lundia AB v. Baxter Healthcare Corp., 52 U.S.P.Q.2d 1378, 1383 (Fed. Cir. 1997).

B. The Rejection of Claims 89 and 90

Applicants' invention, as defined by claims 89 and 90, is directed towards a method for wirelessly submitting electronic wagers to computer equipment and an interactive wagering system that provides a user with an opportunity to wirelessly submit electronic wagers. The user

is allowed to create a wager with wireless user equipment and is allowed to transmit that wager from the wireless user equipment to a communications network via communications equipment at a racetrack that communicates wirelessly with the wireless user equipment. The wager is received at computer equipment for processing from the communications equipment at the racetrack over the communications network.

The wireless communications between the wireless user equipment and the communications equipment at the racetrack is shown in FIG. 2 as occurring over communications path 44s. As described in the specification on page 29, lines 4-6, communications path 44s may be used to connect wireless user equipment 144 to communications equipment 141 at track 143.

LaDue refers to a method for transmitting messages over cellular radio system control channels and switches.

The Examiner contends that the combination of Brenner and LaDue would result in applicants' invention as defined by claims 89 and 90. Contrary to the Examiner's contention, however, the combination of Brenner and LaDue fails to disclose or suggest applicants' improvement of allowing a user to transmit a wager from wireless user equipment to a communications network via communications equipment at a racetrack that communicates wirelessly with the wireless user equipment as defined in claims 89 and 90.

Accordingly, for at least this reason, independent claims 89 and 90 are patentable.


IV. New Claims

New claims 91-135 have been added. New independent claims 91, 134, and 135 are directed towards computer readable medium and are similar to independent claims 1 and 44, claims 87 and 88, and claims 89 and 90, respectively. Therefore, new claims 91, 134, and 135 are patentable for similar reasons as to why claims 1 and 44, claims 87 and 88, and claims 89 and 90, respectively, are patentable.

V. Conclusion

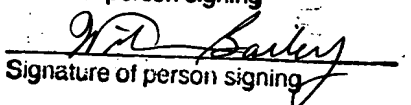
The foregoing demonstrates that claims 1-135 are allowable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,



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PROBET

EASYBET

HANDICAP

TRACK INFO

PLAYER INFO

SETUP

HELP

TRACK → RACE → TYPE → HORSE(S) → AMOUNT → BETQ

78

RACE TICKET

TRACK	RACE
DDX	7
TYPE	AMOUNT
WIN	
HORSE(S)	
TOTAL COST	

88

POST: 18:31 ET

MINUTES TO POST: 32

4

RACE

HORSE ▷

CHOOSE YOUR WAGER

WIN

PLACE

SHOW

WIN/PLACE/SHOW

WIN/PLACE

WIN/SHOW

EXACTA

EXACTA BOX

EXACTA WHEEL

TRIFECTA

TRIFECTA BOX

TRIFECTA WHEEL

FIG. 5